

REMARKS

Claims 1-19 and 22-23 are pending in this application. Applicant thanks the Examiner for recognizing that claims 22-23 include allowable subject matter. In this Response, Applicant has amended claim 10 to fix a formality. In addition, Applicant has provided remarks that explain some of the differences between the present invention and the references cited by the Examiner.

In light of the Office Action, Applicant believes these amendments serve a useful clarification purpose, independent of patentability. Accordingly, Applicant respectfully submits that the claim amendments do not limit the range of any permissible equivalents. As no new matter has been added, Applicant respectfully requests entry of the amendments at this time.

THE REJECTIONS UNDER 35 U.S.C. § 103

At pages 2-4 of the Office Action, the Examiner rejected claim 1 under 35 U.S.C. § 103(a) as being obvious over U.S. Patent No. 5,940,204 to Hewlett (“Hewlett”). For at least the reasons set forth below, Applicant submits that the Examiner’s rejections have been traversed.

Hewlett generally relates to altering the shape of light that is projected onto a stage. Abstract. Specifically, Hewlett discloses a digital micromirror device (DMD) that is used to alter the shape of light. *Id.* The DMD selectively reflects some light, thereby shaping the light that is projected onto the stage. *Id.* The control for the alteration is controlled by an image. *Id.* The image can be processed, which allows image processing effects to be carried out on the shape of light that is displayed. *Id.*

In contrast, the present invention, for example as recited in claim 1, comprises an optical system comprising a first optical unit and a first sensor unit for sensing electromagnetic radiation. The optical system is arranged such that incident electromagnetic radiation that originates from a scene outside of the optical system can reach the first sensor unit by passing via the first optical unit and by following a beam path from the first optical unit to the first sensor unit.

The optical system also includes a micromirror matrix unit that comprises a plurality of micromirror elements and that is arranged in the beam path. Preferably, the micromirror matrix unit is operable to be set in at least a first and a second state. It is desirable that, in the first state, the micromirror matrix unit reflects the incident electromagnetic radiation that reaches the micromirror matrix unit from the first optical unit so that the electromagnetic radiation reaches

the first sensor unit. In the second state, however, the micromirror matrix unit reflects the incident electromagnetic radiation which reaches the micromirror matrix unit from the first optical unit so that the electromagnetic radiation does not reach the first sensor unit.

In the Office Action, the Examiner states that Hewlett differs from the present invention as recited by independent claim 1 only in that the source of the light beam is not a “scene.” Office Action at page 2. The Examiner then proceeds to assert that it would have been obvious that the generic light source 1010 shown in FIG. 10 of Hewlett could be any desired light source, including light from a “scene outside the optical system.” Office Action at page 4. The Examiner’s interpretation of Hewlett, however, is flawed.

As a threshold matter, the Examiner fails to address a feature of the present invention recited in claim 1. Specifically, the Examiner fails to address how Hewlett discloses electromagnetic radiation reaching the first sensor unit by passing via the first optical unit. In fact, Hewlett is completely silent with regard to this feature of the present invention. Moreover, Hewlett does not suggest modifying the lamp 1010 to allow electromagnetic radiation to pass through it. Indeed, modifying the lamp 1010 to do so would render it unfit for its intended purpose, *i.e.*, generating light.

Further, the Examiner asserts that the recitation of a “scene” by claim 1 is made obvious by the light source 1010 of Hewlett. If this were true, however, electromagnetic radiation that originates from a scene outside of the optical system would not be able to reach the first sensor unit by passing via the first optical unit, as recited by claim 1. Therefore, a skilled artisan would not have contemplated the present invention based on Hewlett without using the present invention as a template, which is a classic case of impermissible hindsight. Even if, *arguendo*, a skilled artisan would have been motivated to look to Hewlett, it does not teach or suggest the features of the present invention as recited by claim 1 for at least the reasons stated above.

Moreover, Hewlett is not analogous to the present invention, *i.e.*, it is not “reasonably pertinent to the particular problem with which the inventor was concerned.” *In re Oetiker*, 977 F.2d 1443, 1446 (Fed. Cir. 1992) and MPEP § 2141.01(a). For instance, the present invention relates to an optical system that is operable to detect electromagnetic radiation. Written Description at page 1, lines 8-9. More specifically, the present invention employs a micromirror matrix unit that only engages a first sensor unit for a short time when it needs to be engaged to avoid exposing the sensing unit to destroying radiation. *Id.* at page 8, lines 11-22 and page 9,

lines 1-18. Hewlett, however, is directed to following the shape of a performer and illuminating the performer using a shape that adaptively follows the performer's image. Hewlett at Abstract. It is abundantly clear that an optical system for avoiding exposing a sensing unit to destroying radiation is not even remotely analogous to illuminating a performer.

For at least these reasons, Applicant submits that the Examiner's § 103 rejections have been overcome. Reconsideration and allowance of the pending claims is respectfully requested.

CONCLUSION

All claims are believed to be in condition for allowance. If the Examiner believes that the present amendments and remarks still do not resolve all of the issues regarding patentability of the pending claims, Applicant invites the Examiner to contact the undersigned attorneys to discuss any remaining issues.

A Petition for Extension of Time is submitted herewith extending the time for response one month to and including April 27, 2007. No other fees are believed to be due at this time. Should any fee be required, however, please charge such fee to Bingham McCutchen LLP Deposit Account No. 50-4047, Order No. 25880.0042.

Respectfully submitted,
BINGHAM MCCUTCHEN LLP

Dated: April 24, 2007

By: Siddhesh V. Pandit
Siddhesh V. Pandit, Registration No. 58,572
BINGHAM MCCUTCHEN LLP
2020 K Street, NW
Washington, D.C. 20006
(202) 373-6513 Telephone
(202) 373-6440 Facsimile